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In re Application of :
Luthje et al. : DECISION
Application No.: 09/937,996 :
Filing Date: 28 September 2001 : UNDER
Attorney Docket No.: 02572 :
For: Steering Device For Vehicles : 37 CFR 1.78

This is with regard to counsel's correspondence filed on 31 March 2005, which is in response to the decision under 37 CFR 1.78 mailed on 22 March 2005.

DISCUSSION

The decision under 37 CFR 1.78 mailed on 22 March 2005 dismissed without prejudice the petition under 37 CFR 1.78 filed on 30 August 2004, because

the reference to the prior filed application included in the "Second Preliminary Amendment" filed on 09 January 2004 does not explicitly state whether the instant application is a continuation, continuation-in-part, or divisional application of the international application.

The instant response is accompanied by a "Supplemental Preliminary Amendment" which amends the specification to include an appropriate reference. Therefore, it would now be appropriate to grant the requested relief under 37 CFR 1.78.

DECISION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **GRANTED**.

Applicant is advised that the granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the inclusion of the prior-filed application on any future Filing Receipt should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. The examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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